



Frequently Asked Questions

Respirable Dust Rule Phase II Requirements

February 1, 2016

Sampling Devices

1. How do I notify MSHA when sampling cannot occur because there is a CPDM failure or defect?

You should notify the District Manager orally and in writing of any CPDM failure which prevents sampling and include an explanation of the failure and expected repair time.

2. Do I have to notify MSHA when I start using the CPDM to sample DAs or DWPs? Can I change back to using the CMDPSU and if so, do I have to notify MSHA again? (70.201, 70.209, 71.201, 71.206)

If you would like to begin sampling DAs or DWPs using the CPDM, you must notify the District Manager in writing that only a CPDM will be used for all DA sampling or for all DWP sampling at the mine. The notification must be received at least 90 days before the beginning of the quarter in which the CPDM will be used. If you want to change back to the CMDPSU, you should notify the District Manager in writing and MSHA should receive the notification at least 90 days prior to the beginning of the quarter in which the CMDPSU will be used. You must use the same type of sampling device for all DAs in the mine, and the same type of sampling device for all DWPs in the mine.

Sampling at Surface Operations

1. For surface mines, can mine operators continue to use the gravimetric sampler instead of the CPDM, or are mine operators required to use both? (71.201)

Mine operators at surface mines (including facilities) and at surface areas of underground mines may continue to use the gravimetric sampler (CMDPSU).

Sampling at Underground Operations

1. I use blowing face ventilation. Why do I need to sample my shuttle cars while those using exhausting face ventilation are not required? (70.208)

The need to sample shuttle cars on blowing face ventilation is because these occupations are in the return air from the continuous mining machine and are subject to exposure to higher concentrations of respirable dust.

2. I am in the middle of collecting my 15 samples for the DO when the continuous mining machine breaks down. It will take 3 days to repair the machine. Do I have to start the consecutive shift sampling all over? (70.208, 70.212)

The rule requires that MSHA be notified of a change in operational status that affects sampling of the mechanized mining unit (MMU). MSHA must be notified within 3 working days after the status change has occurred. If you notify MSHA that this MMU is in nonproducing status, then the consecutive shift sampling will be put on hold. Once the equipment is repaired and you begin operating the MMU, you must notify MSHA that the MMU is back in producing status. You must immediately resume your consecutive shift sampling to obtain the 15 samples required. This process allows you to resume the consecutive shift sampling requirement where you left off.

3. I currently have both 014 and 012 Roof Bolter DAs on an MMU. Can an ODO be removed from ODO status and therefore not be required to be sampled quarterly? (70.208)

After February 1, 2016, only ODOs that have been specified by the District Manager as ODOs and identified in the approved mine ventilation plan under § 70.208(a)(2) may be considered for removal of ODO status. The mine operator should submit a removal request in writing. Factors the District Manager may consider in removal of an ODO include: (1) whether MSHA and operator valid representative samples taken for that entity in the 12 months preceding the request show that all samples are less than 50% of the applicable standard; or (2) the occupation has been removed from the mine and will no longer be used.

4. What happens if we cannot complete all DO and/or ODO sampling during the quarterly sampling period?

Operators should make good-faith efforts to complete all DO and ODO sampling every quarter. If, for example, an MMU is non-producing for a portion of the quarter, MSHA will evaluate that operator's sampling in determining whether it was feasible to conduct required sampling. (70.208)

5. What happens to a sample collected by an operator that was not collected according to the sequential sampling requirements for DOs and ODOs in 30 C.F.R. § 70.208?

Samples taken and submitted out of sequence will be voided.

6. If the belts operate only during the day and evening shifts, do I take DA samples on the midnight shift when belts are not operating? (70.209)

No. On February 1, 2016, DAs must be sampled quarterly on consecutive production shifts. A "production shift" with regard to a DA is defined under section 70.2 as "a shift during which material is produced and routine day-to-day activities are occurring in the DA."

7. If a miner in the Designated Occupation (DO) or Other Designated Occupation (ODO) that is being sampled with a CPDM works longer than the regularly scheduled shift, is the operator required to continue sampling that DO or ODO?

At the beginning of a shift, the length of time that a DO or an ODO is scheduled to work on that particular shift must be entered into the CPDM even if the time is longer than the regularly scheduled shift.

However, if the operator makes the decision to assign the miner additional hours after the shift begins (for example, due to an unexpected equipment failure that occurs during the shift), the operator is not required to continue sampling for the unanticipated additional hours worked.

Compliance/Corrective Action/Citations

1. Will MSHA's sampling program interfere with the mine operator's sampling?

If MSHA arrives to conduct sampling during the operator's sampling of the same entity, MSHA will request that the operator not sample that shift and instead allow MSHA to conduct its sampling for that shift. MSHA will document its request so that the operator is not penalized for failure to sample on consecutive shifts.

2. When will MSHA issue a citation for noncompliance with the dust standards? (70.208, 70.209, 71.206, 90.207)

MSHA will usually wait until the operator has submitted all valid representative samples before making a noncompliance determination.

Transmission of Data

1. If we are scheduled to work Monday through Friday, does the certified sampler have to come in on Saturday to transmit samples? (70.210, 71.207, 90.208)

Samples must be transmitted to MSHA within 24 hours after the end of the sampling shift.

2. What should an operator do if a CPDM sample cannot be transmitted within the required 24-hour period because of reasons beyond the operator's control? (70.210, 71.207, 90.208)

An operator should contact the MSHA District Office to inform MSHA of anything that is preventing the required transmission of CPDM sampling results (for example, the server is down). The district will determine whether any follow-up action is necessary.